

51.

File No. O. Drugs /51

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Subject: Opinions under the  
Drugs Act 1940

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File No. O. Drugs /51

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CONTENTS.

Legal Department File No.0. Drugs/1951.

| Sr.<br>No. | R.I./ O. No.               | Subject.                                                                                                                                                                                                                | Pages. |
|------------|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
|            |                            | Opinions under the Drugs<br>Act, 1940.                                                                                                                                                                                  |        |
|            | O.No.2605,<br>dt. 10-2-51. | Drug Rule 65(2) proviso<br>Schedules E and H.<br><br>Question whether sulpha<br>drugs can be sold in<br>original containers to<br>layman by a person who<br>is not a qualified person<br>within the meaning of Act. ... | 1-4    |

MHP.  
26/6/56.

Legal Department.

The question raised for R.L.A.'s consideration is whether sulpha drugs can be sold in original containers to layman by a person who is not a qualified person within the meaning of the Act.

Sulpha drugs fall under Schedule E as well as Schedule H to the Drugs Rules, 1945. Under rule 61 licences in forms 20 and 21 are necessary for the sale, etc. of drugs. Under rule 65, licences in form 20 and form 21 shall be subject to the conditions stated therein and to the general conditions specified in clauses (1) to (15). Licence in forms 20, 21, requires the name of a qualified person in charge to be stated. Clause (2) of rule 65 provides the supply otherwise than by way of wholesale dealing of a drug specified in schedule E or any preparation contained in any such drug and of any drug supplied in the prescription of a registered medical practitioner shall be effected only by or under the personal supervision of a qualified person. It is clear that not only the drugs specified in Schedule E but also the drugs which can be supplied on the prescription of a registered medical practitioner would be governed by this provision. Drugs which can be supplied on the prescription of a registered medical practitioner are specified in Schedule H (see clause (9) of rule 65). Proviso to clause (2) of rule 65 provides that this condition shall not apply to the sale of a preparation containing a drug specified in Schedule E supplied otherwise than on the prescription ...

the prescription of a registered medical practitioner if the preparation has been made up for sale in a container elsewhere than on the premises and the container has not been opened since the time when the preparation was made up for sale therein. The sale of drugs specified in Schedule E does not require to be effected on the prescription of a registered medical practitioner, but if a drug is falling under Schedule E falls as well under Schedule H it would certainly be required to be sold on the prescription of a registered medical practitioner. Under the proviso to rule 65, clause (2), such of the preparations containing a drug specified in Schedule E supplied otherwise than ~~on~~ on the prescription of a registered medical practitioner, that is to say drugs falling in Schedule E but not in Schedule H, would come within the proviso. As stated above sulpha drugs fall in Schedule E as well as in Schedule H. Consequently, the proviso to rule 65 clause (2) will have no application and sulpha drugs can be sold only on the ~~preparation~~ prescription of a registered medical practitioner and by or under the personal supervision of a qualified person. The view taken by the Drugs Controller is correct.

Sd. J.R.Dhurandhar

8/2

Additional Secretary to Government.

U.R. to L.S.G. & P.H.D., No. 2605, dated the 10th Feb. 1951.